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DUNNAVANT *v.* DUNNAVANT et al.

Jan. 11 1917.

[91 S. E. 138.]

1. Lost Instruments (§ 8 (3)*)—Proof.—The jurisdiction of equity to set up lost deeds or wills will not be lightly exercised, nor except upon the clearest and most stringent proof.

[Ed. Note.—For other cases, see Lost Instruments, Cent. Dig. § 17; Dec. Dig. § 8 (3).* 9 Va.-W. Va. Enc. Dig. 479.]

2. Lost Instruments (§ 8 (3)*)—Proof.—In action by son to establish lost deed by his father, evidence that the son had made no claim to the property for 29 years after he claimed the deed had been made, and his testimony that he left it for safekeeping with his sister, who kept it in a trunk to which the key hung near at hand, etc., held not sufficient to show the existence of the deed.

[Ed. Note.—For other cases, see Lost Instruments, Cent. Dig. § 17; Dec. Dig. § 8 (3).* 9 Va.-W. Va. Enc. Dig. 479.]

Appeal from Circuit Court, Henry County.

Suit by Richard A. Dunnavant against Thomas W. Dunnavant and others. From judgment for complainant, the named respondent appeals. Reversed, and bill dismissed.

Whittle & Whittle of Martinsville, for appellant.

Gravely & Gravely, of Martinsville, for appellees.

SHEPHERD et al. *v.* VIRGINIA STATE INS. CO. et al.

Jan. 11 1917.

[91 S. E. 140.]

Insurance (§ 8*)—Insurance Fund—Reinsuring Companies—"Policies."—The securities deposited by a fire insurance company under Insurance Act (Laws 1906, c. 112) subc. § 17, are for protection of holders of policies on property in the state, and not an insurance company reinsuring in the depositing company its risks on property outside the state, since said § 17 provides that "holders of all policies made with residents of this state" shall have a lien, etc., on such securities, for, although contracts of reinsurance are frequently designated as "policies," unless there is something in the context to indicate reinsurance, the use of the term "policy" in reference to fire insurance business naturally suggests, and will be understood as

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

meaning, the commonly known contract of insurance for the protection of a property owner against loss of his property by fire.

[Ed. Note. For other cases, see Insurance, Cent. Dig. § 7; Dec. Dig. § 8.* 6 Va.-W. Va. Enc. Dig. 63.]

For other definitions, see Words and Phrases, First and Second Series, Policy.]

Appeal from Circuit Court of City of Richmond.

Proceeding by Joseph Button, Insurance Commissioner, against the American Union Fire Insurance Company, and suit by W. J. Shepherd and others against the same company, consolidated by order of court, in which proceeding the Virginia State Insurance Company filed claim. From a decree allowing such claim, W. J. Shepherd and others appeal. Reversed and remanded.

Loyall, Taylor & White, of Norfolk, for appellants.

Geo. L. Christian, of Richmond, for appellees.

INGE, Trustee, et al. v. INGE et al.

Jan. 11, 1917.

[91 S. E. 142.]

1. Reformation of Instruments (§ 43*)—Equitable Estoppel—Burden of Proof.—In a suit to reform a deed executed in carrying out a partition agreement, whereby a tract that should have been conveyed to complainant was conveyed to her daughter, the daughter, admitting the mistake, had the burden of proving the equitable estoppel by acquiescence, ratification, etc., on which she relied.

[Ed. Note.—For other cases, see Reformation of Instruments, Cent. Dig. § 154; Dec. Dig. § 43.* 11 Va.-W. Va. Enc. Dig. 905.]

2. Reformation of Instruments (§ 45 (1)*)—Equitable Estoppel—Evidence.—In such suit evidence held not to sustain the defense of equitable estoppel against the right to the relief sought.

[Ed. Note.—For other cases, see Reformation of Instruments, Cent. Dig. §§ 157, 171, 177, 182, 189, 191; Dec. Dig. § 45 (1).* 11 Va.-W. Va. Enc. Dig. 905.]

3. Reformation of Instruments (§ 23*)—Mistake—Prejudice—Estoppel.—In such suit the fact that after complainant had declined a reconveyance the daughter and her husband had given a deed of trust on the tract to secure money borrowed for a third party, as to which they were collaterally secured where they were able to pay off the deed of trust, in no way put her in a worse condition than she would

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